

MDR Tracking Number: M5-04-3203-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 05-24-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises for dates of service 11-11-03 through 11-20-03 **were** found to be medically necessary. The therapeutic exercises after dates of service 11-20-03, office visits, electrical stimulation, neuromuscular re-education and manual therapy technique for dates of service 11-11-03 through 02-06-04 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits, therapeutic exercises, electrical stimulation, neuromuscular re-education and manual therapy technique for dates of service 11-11-03 through 02-06-04.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 11-11-03 through 11-20-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 17th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

August 6, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3203-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The patient was injured as a result of a slip and fall accident while employed with _____. She was referred to Dr. O for rehabilitative therapy. She was provided passive and active rehabilitative therapies three times per week starting on 8-04-2003 with a diagnosis of lumbar radiculopathy, lumbar sprain/strain, thoracic sprain/strain and myospasm/myositis.

Therapy continued with an undetermined frequency into November 2003 through February of 2004. This therapy was on 11-12, 13 and 20, and 12-8, 10 and 16 of 2003 and then again on 1-13, 15 and 28 and 2-2, 5 and 6 of 2004. _____ had not returned to work by the end of the records reviewed.

_____ had an MRI of the lumbar spine on 10-23-2003 that demonstrated an L5/S1 HNP with contact of the subarachnoid space. A thoracic MRI performed at the same time was normal. A cervical MRI was completed on 11-25-2003 that demonstrated C5/6 HNP with cord compression

and bilateral foraminal nerve root encroachment. NCV, DESP, and SSEP on 11-14-2003 demonstrated a positive DESP indicating possible right L5/S1 nerve root irritation.

An RME performed by Dr. B on 11-20-2003 noted ____ could return to work light duty and should be on a home exercise program some 5 months post injury for a sprain/strain.

____ was referred to Dr. K who recommended 3 cervical ESIs on 12-02-2003 and noted she was not at MMI. Dr. K again evaluated ____ on 12-16-2003 and recommended lumbar ESIs. On 1-13-2004 Dr. K noted that ____ was scheduled for a DD and again caudal ESIs were recommended. On 3-09-2004 Dr. K noted the ESIs had been denied and still not completed by 5-11-2004 but that the Designated Doctor had certified ____ was not at MMI.

____ attended a Designated Doctor evaluation with Dr. D on 2-28-2004. He certified ____ not to be at MMI and that caudal ESIs should be performed and if these fail a neurosurgical consultation should be obtained.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of therapeutic exercises, level II office visits, electrical stimulation, neuromuscular reeducation, manual therapy technique from 11-11-2003 through 2-06-2004.

DECISION

The reviewer disagrees with the previous adverse determination regarding therapeutic exercises from 11-11-2003 through 11-20-2003. The reviewer agrees with the previous adverse determination regarding all other charges.

BASIS FOR THE DECISION

The reviewer states that the denial for the 97110 procedures provided on 11-11, 12, 13 and 20, 2003 is incorrect. By referencing the National Correct Coding Initiative Edits Version 10.2 found at the CMS website and the AMA CPT 2003 coding guides, the 97113 code is not mutually exclusive but considered a component of a 97110 code unless a modifier 59 is appended to indicate a distinct and separate service. In this case, the records provide sufficient evidence that these services can appropriately be billed concurrently and are distinctly different services. Therefore, the 97110 services should be considered appropriate for reimbursement.

The services from 12-8-2003 through 2-06-2004 should not be considered reasonable or necessary as the medical records do not substantiate their necessity. According to Mercy Conference Guidelines, Rand Consensus Panel, and TWCC Labor Code 408-021 a) this treatment is not substantiated as there is no evidence of improvement with ____'s condition to justify continuation, she had not returned to work, nor was a definite treatment plan identified with measurable outcomes. It does not appear that a re-exam was performed since the initial exam on 8-04-2003 that would substantiate further care is reasonable or necessary. Review of

the records indicates no change in subjective pain levels or objective data to indicate these services are necessary and ____ clearly had failed to improve with previous treatment.

The reviewer agrees with the RME only in that ____ would reasonable be able to perform exercises on a home based after 3 months of one on one therapy until alternative treatment is provided such as the ESIs recommended by Dr. K. Treatment from 12-08-2003 through 2-06-2004 cannot be recommended as reasonable or necessary.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,